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EXAMINER

THERIAULT, STEVEN B

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEVEN M. KAYE and MATTHEW L. PHILLIPS

Appeal 2009-004164
Application 10/622,332
Technology Center 2100

Decided: December 17, 2009

Before JAMES D. THOMAS, JAY P. LUCAS, and JOHN A. JEFFERY,
Administrative Patent Judges.

THOMAS, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-12 and 14-20, Appellants having canceled claim 13. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

[A] call for help is received at a remote service bureau; a user profile is checked to find out things like user disabilities; an equipment profile of the user is checked to determine what different types and models of paper processing equipment the user has; and then interactive assistance is provided to the user from the remote service bureau such that the interactive assistance is based at least partly upon the user profile and the equipment profile.
(Abstract, ll. 3-9; Spec. 14; Figs. 1, 2.)

Representative Claim

1. A method of helping a person to use or prepare to use a paper processing machine, comprising the steps of:
 receiving a call for help from the person to a remote service bureau;
 checking a user profile of the person;
 checking an equipment profile of the person; and
 receiving a video uplink from the person's location;
 providing interactive assistance from the remote service bureau to the person, in response to the call, and seeing a visual image from the person's location, wherein the interactive assistance is based at least partly upon the user profile, the visual image and the equipment profile.

Prior Art and Examiner's Rejections

The Examiner relies on the following references as evidence of anticipation and unpatentability:

Matthews	2004/0139156 A1	Jul. 15, 2004
	(effective filing date	Dec. 21, 2002)
Boies	2002/0194011 A1	Dec. 19, 2002

Claims 1, 3-7, 9, 11, 14-17 and 19 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Matthews. The Examiner relies upon this reference in combination with Boies under 35 U.S.C. § 103 to reject dependent claims 2, 8, 10, 12, 18, and 20.¹

Claim Groupings

Based on Appellants' arguments in the Appeal Brief, we consider independent claim 1 as representative of the subject matter of independent claims 1 and 11 on appeal. Additionally, no arguments were presented to us as to any dependent claim within the first stated rejection under the 35 U.S.C. § 102. As to the rejection of various dependent claims under 35 U.S.C. § 103, Appellants consider the dependent claim 2 as representative of the subject matter of dependent claims 2 and 12. No other claims were argued in this rejection.

ISSUE

Have Appellants shown that the Examiner erred in finding that the subject matter of representative independent claim 1 on appeal is anticipated by Matthews?

FINDINGS OF FACT ("FF")

1. The method of providing direct technical support over networks in Matthews relates to direct, person to person assistance over a communications network such as to provide interactive assistance to a user in need. Figures 1 and 2 depict the generalized help center 40

¹ As indicated earlier in this opinion, dependent claim 13 has been canceled. Page 3 of the Answer clarifies the record as to this claim. The Examiner and we note that dependent claims 14 and 20 presently depend from canceled claim 13.

corresponding to the remote service bureau of the claims on appeal. Figures 3-18 generally illustrate user/help center dialogues relating to user/equipment profiles to be determined. The Examiner generally relies on the Summary of the Invention beginning at paragraph 16 for details of the rejection. User profiles associated with equipment profiles are generally taught in paragraphs 28-30. In addition to the teaching in paragraph 30 that the dialogues and interactive connection may include two video links, additional teachings of this feature are found in paragraphs 65, 98, 113 and 123. Paragraphs 190-193 relate to product profiles in addition to user profiles at paragraphs 194-201. Figure 30 of Matthews illustrates the method 950 of this interactive assistant which relates a user's profile to equipment profiles to the nature of interactive assistance given to the requesting users.

2. As revealed in the title of Boies, the "limitations" of a user are determined upon selecting a format for presentation of content to this user. As the Answer has made clear, paragraphs 10 and 66 specifically teach that the customized assistance provided to a user is associated with the user's profile, such as to include user disabilities as a specific type of a broadly defined "limitation" of a user. Figure 3 illustrates an information retrieval device utilizing audio/visual adaptor techniques and Figures 4 and 6 relate to user profiles in element 460 in Figure 4 used in selecting information content based upon the "limitations" of the user.

PRINCIPLES OF LAW

Anticipation

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 begins with a determination of the scope of the claim. We determine the scope of the claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The properly interpreted claim must then be compared with the prior art.

ANALYSIS

We refer to, rely on, and adopt the Examiner’s findings and conclusions set forth in the Answer as to the stated rejections and responsive arguments presented in the Brief with respect to each argued claim on appeal. Our discussions will be limited to the following points of emphasis.

Within the first stated rejection of representative independent claim 1 on appeal, page 11 of the Brief recognize that Matthews in part is concerned with the language of the user. This recognition follows the recitation of numerous paragraphs from Matthews in earlier pages of the Brief. The Brief asserts that the language does not concern itself with physical disabilities of the user. This argument is applied to independent claim 1 on appeal, yet there is no recitation of user disabilities, let alone a physical disability of a

user, in representative independent claim 1 on appeal. In this claim there is only a recitation of a corresponding user profile, which Appellants also recognize is taught in Matthews anyway.

It should be emphasized here as well that even dependent claim 2, separately discussed later in this opinion because it is rejected under 35 U.S.C. § 103, does not even recite physical disabilities of a user to the extent argued at page 11 of the Brief. All that is recited is the feature of a “user disability” as a part of the user profile. Even the language of a user may be considered a user disability from the perspective of one of ordinary skill in the art. Moreover, even as that applies to claim 1 on appeal, Appellants’ recognition at page 11 of the Brief that their own Specification in paragraph [009] teaches a so-called “empty user profile” in which the user has no relevant disabilities, clearly buttresses the Examiner’s conclusion that the subject matter of representative independent claim 1 on appeal is anticipated by Matthews.

We have noted in FF 1 the pertinent detailed teachings in Matthews that we have found in part in addition to those relied upon by the Examiner that directly address the features of representative independent claim 1 argued not to be present in Matthews. The Examiner’s responsive remarks beginning at page 12 of the Answer directly address each of the perceived arguments from the principal Brief. We have also noted in FF 1 particular teachings related to the argued absence of teachings in Matthews that there is no corresponding video uplink to the extent recited in the independent claim 1 on appeal in Matthews. In fact, we noted numerous instances where this feature is clearly taught to one of ordinary skill of art.

As to the rejection of representative dependent claim 2 under 35 U.S.C. § 103, the generalized and specific teachings of user profiles in Matthews have been further embellished by the teachings of Boies to buttress the Examiner's reasoning. Appellants assert at page 14 of the Brief that Matthews and Bois in combination do not teach the entire subject matter of representative dependent claim 2. With this view, we strongly disagree.

Initially, Appellants did not argue that Matthews and Bois are not properly combinable within 35 U.S.C. § 103, and only generally assert that the features of representative dependent claim 2 are not met by the combination. There is no further explanation as to why Appellants make such assertion.

On the other hand, the Examiner's positions in the Answer, particularly in the responsive argument's portion beginning at page 18, directly address and expand upon the Examiner's combinability reasoning of the relied on teachings of the two references.

Our FF 2 indicates significant teachings that the characterization of user profiles having information related to the "limitations" of an individual user also includes characterizations of the users having disabilities.

Lastly, we note that no Reply Brief has been filed to contest any of the Examiner's responsive arguments in the Answer.

CONCLUSIONS and DECISION

Appellants have not shown that Examiner erred in finding that Matthews anticipates that subject matter of representative independent claim 1 on appeal. Additionally, Appellants have not shown that the Examiner erred in concluding that the combination of Matthews and Bois teaches the subject matter of representative dependent claim 2 on appeal.

Therefore, we affirm the Examiner's rejection of various claims under 35 U.S.C. § 102 as well as the separately stated rejection of other claims on appeal rejected under 35 U.S.C. § 103. All claims on appeal claims are unpatentable.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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